

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

MONICA CENICEROS, natural mother and
next friend of DAYAMI CENICEROS, a minor,

Plaintiff,

v.

No. CIV-14-00706 SMV/LAM

CITY OF PORTALES; PORTALES POLICE
DEPARTMENT; and TODD MOORE,
Individually and in his Official Capacity,

Defendants.

ORDER APPOINTING GUARDIAN AD LITEM

THIS MATTER is before the Court on the parties' Joint Motion to Appoint *Guardian Ad Litem* (Doc. 45), filed on May 27, 2015. In the motion, the parties state that a proposed settlement has been reached by the parties and they seek the appointment of as *Guardian Ad Litem* for Dayami Cenicerros, a minor child, in this action to protect her interests with regard to the settlement. The motion also states that Defendants' insurance company has agreed to pay the reasonable charges incurred by the *Guardian Ad Litem*. *Id.* at ¶10. The Court has reviewed the unopposed motion, the record of this case and applicable law, and **FINDS** that the motion should be **GRANTED** and Gabrielle M. Valdez appointed as *Guardian Ad Litem* Dayami Cenicerros.

IT IS THEREFORE HEREBY ORDERED that Joint Motion to Appoint *Guardian Ad Litem* (Doc. 45) is **GRANTED** as follows:

1. Gabrielle M. Valdez is hereby appointed to serve as *Guardian Ad Litem* for Dayami Cenicerros, a minor child, in this action.

2. The Guardian Ad Litem shall exercise her independent and professional judgment in the performance of the following duties:

a. to investigate on behalf of the Court and to review the settlement of this case proposed by the parties to see whether the proposed settlement is fair and reasonable as it relates to Dayami Cenicerros and is in the best interests of Dayami Cenicerros; and

b. to report to the Court, in writing and orally at a hearing to be set at a later date, on (i) the outcome of her investigation and review, (ii) the fairness and reasonableness of the proposed settlement as it relates to Dayami Cenicerros , and (iii) whether the proposed settlement is in the best interests of Dayami Cenicerros.

3. The Guardian Ad Litem shall consider, in her investigation of the proposed settlement and report to the Court, the manner in which the settlement proceeds will be held and/or applied for the benefit of Dayami Cenicerros.

4. The fees and costs for Gabrielle M. Valdez' services as Guardian Ad Litem shall be paid by Defendants' insurance company as ordered by the Court.

5. Dayami Cenicerros is already represented by counsel in this matter. This order appointing a Guardian Ad Litem does not contemplate the Guardian Ad Litem's representation of Dayami Cenicerros as an advocate but, instead her appointment is as an "arm of the Court." The Guardian Ad Litem's responsibilities under this appointment are to the Court and not to the minor child.

6. This appointment of Gabrielle M. Valdez as Guardian Ad Litem is intended to convey upon her in this action all the immunities and privileges available to a Guardian Ad Litem as articulated by the New Mexico Supreme Court in *Collins v. Tabet*, 111 N.M. 391, 806 P.2d 40 (1991).

7. The Guardian Ad Litem shall have access to all medical records regarding including, but not limited to, all counseling and dental records. The Guardian Ad Litem shall also have access to all of Dayami Cenicerros' medical bills.

8. The Guardian Ad Litem shall be entitled to participate in, and receive notice of, all proceedings in this action, and to receive copies of all documents filed in this action and all correspondence between the parties to this action.

9. Upon the entry of an order approving the proposed settlement, the Guardian Ad Litem's appointment will automatically cease and she shall have no further or continuing duties to the Court or the parties pursuant to this appointment.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent